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Supreme Court, U.S.
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No. A-512

IN THE

# Supreme Court of the United States

OCTOBER TERM, 1986

T. L. TUCKER,

*Petitioner,*

v.

BRAD BENNETT, ET AL.

*Respondents.*

ON PETITION FOR A WRIT OF CERTIORARI
TO THE CIRCUIT COURT OF APPEALS
FOR THE TENTH CIRCUIT

## BRIEF FOR FARM CREDIT RESPONDENTS IN OPPOSITION

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## ARGUMENT

*This Action Presents No Special or Important Issues Which are Appropriately Reviewed on Writ of Certiorari.*

Plaintiff-Petitioner ("Tucker") is appealing an October 23, 1986 Order and Judgment from the United States Court of Appeals for the Tenth Circuit, which affirmed a December 4, 1985 Order from the United States District Court for the District of Colorado dismissing Tucker's pro se Complaint, without prejudice, because it failed to meet the requirements of Fed. R. Civ. P. 8(a). Defendants-Respondents Brad Bennett, Alton B. Warren, Valeda M. Rundell, Jerold L. Bennett, Wes Bucher, Monte C. Miller, G.M. Russell, Ervin Hancock, H. B. Wolfe, Tom Idler, Bill Adler, Federal Land Bank of Lamar and Federal Land Bank of Wichita (collectively, the "Farm Credit Respondents") respectfully urge this Court to deny certiorari since two federal courts have now held that Tucker's pro se Complaint failed to comply with federal pleading requirements, and since Tucker's Complaint was dismissed without prejudice, leaving Tucker free to obtain counsel and re-file a proper Complaint, if after legal advice Tucker is still convinced that such action is warranted.

After reviewing Tucker's Complaint, the District Court held that "even construed liberally, as all *pro se* complaints must be, it is clear that this complaint fails to meet the requirements of Fed. R. Civ. P. 8(a)." [*See* Tucker's Petition for a Writ of Certiorari, p. 5a]. After reviewing the same document, the Court of Appeals wrote that, "We agree with the District Court that plaintiff's rambling and disjointed complaint fails in all respects to 'contain a short and plain statement' of the basis of the court's jurisdiction required under Fed. R. Civ. P. 8(a)." [*See* Tucker's Petition for a Writ of Certiorari, p. 7a].

Even a pro se complaint is subject to dismissal if the pleading fails reasonably to inform the adverse party of the

asserted cause of action. *See, e.g., Wallace* v. *City of Pagedale, Missouri*, 359 F.2d 57, 58 (8th Cir. 1968); *Koll* v. *Wayzata State Bank*, 397 F.2d 124, 125 (8th Cir. 1968); *Choate* v. *United States*, 413 F. Supp. 475, 478 (N.D. Okla. 1976). Courts have thus unhesitatingly dismissed pro se actions where the complaint consisted of "a labyrinthian prolixity of unrelated and vituperative charges that defy comprehension", *Prezzi* v. *Schelter*, 469 F.2d 691, 692 (2d Cir. 1972), *cert. denied*, 411 U.S. 935 (1973); was "confusing, ambiguous, redundant, vague and, in some respects, unintelligible", *Wallace, supra*, 359 F.2d at 58; was "so verbose, confused and redundant that its true substance, if any, is well disguised", *Corcoran* v. *Yorty*, 347 F.2d 222, 223 (9th Cir.), *cert. denied*, 382 U.S. 966 (1965); contained "a completely unintelligible statement of argumentative fact", *Koll, supra*, 397 F.2d at 125; with "little more than demands, charges, and conclusions", *Burton* v. *Peartree*, 326 F. Supp 755, 758 (E.D. Penn. 1971); represented "circuitous diatribes far removed from the heart of the claim", *Prezzi* v. *Burzak*, 57 F.R.D. 149, 151 (S.D. N.Y. 1972); or set forth "a meandering, disorganized, prolix narrative", *Karlinsky* v. *New York Racing Association, Inc.*, 310 F. Supp. 937, 939 (S.D. N.Y. 1970).

Farm Credit Respondents submit that the District Court and the Court of Appeals acted correctly in dismissing Tucker's action. Tucker's Complaint was, after all, dismissed without prejudice, leaving Tucker free to re-file a Complaint which conforms to federal rules. Accordingly, Farm Credit Respondents respectfully urge the Court to deny Tucker's petition for certiorari, and finally bring this needless appeals process to an end.

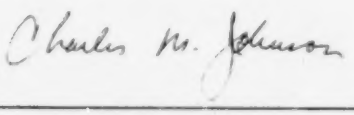
## CONCLUSION

The Tenth Circuit's proper analysis of a relatively isolated procedural issue is not one this Court should review. The appealed-from Order has virtually no precedential impact generally, and no lasting effect on Tucker's rights specifically. Tucker's petition for certiorari should be denied.

Date: March 19, 1987

Respectfully submitted,

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